

## Office of the Secretary of Defense

## § 158.3

158.6 Procedures.

158.7 Guidance for contractor medical and dental fitness.

AUTHORITY: Public Law 110-181; Public Law 110-417.

SOURCE: 76 FR 81808, Dec. 29, 2011, unless otherwise noted.

### § 158.1 Purpose.

This part establishes policy, assigns responsibilities, and provides procedures for operational contract support (OCS), including OCS program management, contract support integration, and integration of defense contractor personnel into contingency operations outside the United States in accordance with the guidance in DoD Directive 3020.49 (see <http://www.dtic.mil/whs/directives/corres/pdf/302049p.pdf>) and the authority in DOD Directive 5134.01 (see <http://www.dtic.mil/whs/directives/corres/pdf/513401p.pdf>).

### § 158.2 Applicability.

This part applies to:

(a) The Office of the Secretary of Defense, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense agencies, the DoD field activities, and all other organizational entities within the Department of Defense (hereinafter referred to collectively as the “DoD Components”).

(b) DoD operations (contingency, humanitarian assistance, and other peace operations) outside the United States; other military operations as determined by a Combatant Commander (CCDR); or as directed by the Secretary of Defense (hereinafter referred to collectively as “applicable contingency operations”).

### § 158.3 Definitions.

Unless otherwise noted, the following terms and their definitions are for the purposes of this part.

*Acquisition.* Defined in 48 CFR 2.101.

*Contingency acquisition.* The process of acquiring supplies, services, and construction in support of contingency operations.

*Contingency contract.* A legally binding agreement for supplies, services,

and construction let by Government contracting officers in the operational area, as well as other contracts that have a prescribed area of performance within a designated operational area. Contingency contracts include theater support, external support, and systems support contracts.

*Contingency contractor personnel.* Individual contractors, individual sub-contractors at all tiers, contractor employees, and sub-contractor employees at all tiers under all contracts supporting the Military Services during contingency operations.

*Contingency operation.* Defined in Joint Publication 1-02 (see [http://www.dtic.mil/doctrine/new\\_pubs/jpl\\_02.pdf](http://www.dtic.mil/doctrine/new_pubs/jpl_02.pdf)).

*Contingency program management.* The process of planning, organizing, staffing, controlling, and leading the operational contract support (OCS) efforts to meet joint force commander (JFC) objectives.

*Contract administration.* A subset of contracting that includes efforts that ensure supplies and services are delivered in accordance with the conditions and standards expressed in the contract. Contract administration is the oversight function, from contract award to contract closeout, performed by contracting professionals and designated non-contracting personnel.

*Contract administration delegation.* A CCDR policy or process related to theater business clearance that allows the CCDR to exercise control over the assignment of contract administration for that portion of contracted effort that relates to performance in, or delivery to, designated area(s) of operations and allows the CCDR to exercise oversight to ensure the contractor’s compliance with CCDR and subordinate task force commander policies, directives, and terms and conditions. Whether the CCDR chooses to implement such a process depends on the situation.

*Contracting.* Defined in 48 CFR 2.101.

*Contracting officer.* Defined in 48 CFR 2.101.

*Contracting Officer’s Representative (COR).* Defined in 48 CFR 202.101.

*Contractor management.* The oversight and integration of contractor personnel and associated equipment providing

support to the joint force in a designated operational area.

*Contractors Authorized to Accompany the Force (CAAF).* Contractor personnel, including all tiers of subcontractor personnel, who are authorized to accompany the force in applicable contingency operations and who have been afforded CAAF status through Letter of Authorization (LOA). CAAF generally include all U.S. citizen and Third Country National (TCN) employees not normally residing within the operational area whose area of performance is in the direct vicinity of U.S. forces and who routinely are co-located with U.S. forces (especially in non-permissive environments). Personnel co-located with U.S. forces shall be afforded CAAF status through LOA. In some cases, CCDR subordinate commanders may designate mission-essential Host Nation (HN) or Local national (LN) contractor employees (e.g., interpreters) as CAAF. CAAF includes contractors identified as contractors deploying with the force in DoD Instruction 3020.41 and DoD Directive 3002.01E (see <http://www.dtic.mil/whs/directives/corres/pdf/300201p.pdf>).

CAAF status does not apply to contractor personnel in support of contingencies within the boundaries and territories of the United States.

*Defense contractor.* Any individual, firm, corporation, partnership, association, or other legal non-Federal entity that enters into a contract directly with the DoD to furnish services, supplies, or construction. Foreign governments, representatives of foreign governments, or foreign corporations wholly owned by foreign governments that have entered into contracts with the DoD are not defense contractors.

*Designated reception site.* The organization responsible for the reception, staging, integration, and onward movement of contractors deploying during a contingency. The designated reception site includes assigned joint reception centers and other Service or private reception sites.

*Essential contractor service.* A service provided by a firm or an individual under contract to the DoD to support vital systems including ships owned, leased, or operated in support of military missions or roles at sea and associated support activities, including in-

stallation, garrison, base support, and linguist/translator services considered of utmost importance to the U.S. mobilization and wartime mission. The term also includes services provided to Foreign Military Sales customers under the Security Assistance Program. Services are considered essential because:

(1) The DoD Components may not have military or DoD civilian employees to perform the services immediately.

(2) The effectiveness of defense systems or operations may be seriously impaired and interruption is unacceptable when the services are not available immediately.

*External support contracts.* Pre-arranged contracts or contracts awarded during a contingency from contracting organizations whose contracting authority does not derive directly from theater support or systems support contracting authorities.

*Functional Combatant Commands.* U.S. Joint Forces Command (USJFCOM), U.S. Special Operations Command, U.S. Strategic Command, and U.S. Transportation Command.

*Geographic Combatant Commands.* U.S. Africa Command, U.S. Central Command, U.S. European Command, U.S. Northern Command, U.S. Pacific Command, and U.S. Southern Command.

*Hostile environment.* Defined in Joint Publication 1-02.

*Host nation (HN).* A nation that permits, either by written agreement or official invitation, government representatives and/or agencies of another nation to operate, under specified conditions, within its borders.

*Letter of authorization (LOA).* A document issued by a procuring contracting officer or designee that authorizes contractor personnel to accompany the force to travel to, from, and within an operational area, and outlines Government-furnished support authorizations within the operational area, as agreed to under the terms and conditions of the contract. For more information, see 48 CFR PGI 225.74.

*Local national (LN).* An individual who is a permanent resident of the nation in which the United States is conducting contingency operations.

*Long-term care.* A variety of services that help a person with comfort, personal, or wellness needs. These services assist in the activities of daily living, including such things as bathing and dressing. Sometimes known as custodial care.

*Non-CAAF.* Personnel who are not designated as CAAF, such as LN employees and non-LN employees who are permanent residents in the operational area or TCNs not routinely residing with U.S. forces (and TCN expatriates who are permanent residents in the operational area) who perform support functions away from the close proximity of, and do not reside with, U.S. forces. Government-furnished support to non-CAAF is typically limited to force protection, emergency medical care, and basic human needs (e.g., bottled water, latrine facilities, security, and food when necessary) when performing their jobs in the direct vicinity of U.S. forces.

*Operational contract support (OCS).* The ability to orchestrate and synchronize the provision of integrated contract support and management of contractor personnel providing support to the joint force within a designated operational area.

*Prime contract.* Defined in 48 CFR 3.502.

*Qualifying contingency operation.* In accordance with Article 2(a)(10) of the Uniform Code of Military Justice (UCMJ) (see <http://www.au.af.mil/au/awc/awcgate/ucmj.htm>), a military contingency operation conducted for the purpose of engaging an enemy or a hostile force in combat where disciplinary authority over civilians under Article 2(a)(10) is governed by the UCMJ, the Secretary of Defense Memorandum, “UCMJ Jurisdiction Over DoD Civilian Employees, DoD Contractor Personnel, and Other Persons Serving With or Accompanying the Armed Forces Overseas During Declared War and in Contingency Operations,” dated March 10, 2008 (see <http://www.dtic.mil/whs/directives/corres/pdf/DTM-08-009.pdf>), and the Manual for Courts-Martial, United States, current edition (see <http://www.au.af.mil/au/awc/awcgate/law/mcm.pdf>).

*Replacement center.* The centers at selected installations that ensure per-

sonnel readiness processing actions have been completed prior to an individual reporting to the aerial port of embarkation for deployment to a designated operational area.

*Requiring activity.* The organization charged with meeting the mission and delivering the requirements the contract supports. This activity is responsible for delivering the services to meet the mission if the contract is not in effect. The requiring activity may also be the organizational unit that submits a written requirement, or statement of need, for services required by a contract. This activity is responsible for ensuring compliance with DoD Instruction 1100.22 (see <http://www.dtic.mil/whs/directives/corres/pdf/110022p.pdf>) and Deputy Secretary of Defense Memorandums, “In-sourcing Contracted Services—Implementation Guidance” dated May 28, 2009, and “Implementation of Section 324 of the National Defense Authorization Act for Fiscal Year 2008 (FY 2008 NDAA)—Guidelines and Procedures on In-Sourcing New and Contracted Out Functions” dated April 4, 2008 (for both Deputy Secretary of Defense Memorandums see [http://prhome.defense.gov/RSI/REQUIREMENTS/INSOURCE/INSOURCE\\_GUIDANCE.ASPX](http://prhome.defense.gov/RSI/REQUIREMENTS/INSOURCE/INSOURCE_GUIDANCE.ASPX)).

*Subcontract.* Defined in 48 CFR 3.502.

*Systems support contracts.* Prearranged contracts awarded by Service acquisition program management offices that provide fielding support, technical support, maintenance support, and, in some cases, repair parts support, for selected military weapon and support systems. Systems support contracts routinely are put in place to provide support to many newly fielded weapons systems, including aircraft, land combat vehicles, and automated command and control systems. Systems support contracting authority, contract management authority, and program management authority reside with the Service system materiel acquisition program offices. Systems support contractors, made up mostly of U.S. citizens, provide support in continental U.S. (CONUS) and often deploy with the force in both training and contingency operations. The JFC generally has less control over systems support

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contracts than other types of contracts.

*Theater business clearance.* A CCDR policy or process to ensure visibility of and a level of control over systems support and external support contracts executing or delivering support in designated area(s) of operations. The breadth and depth of such requirements will be situational. Theater business clearance is not necessarily discrete and can be implemented to varying degrees on a continuum during all phases of an operation.

*Theater support contracts.* Contingency contracts awarded by contracting officers deployed to an operational area serving under the direct contracting authority of the Service component, special operations force command, or designated joint contracting authority for the designated contingency operation.

*Uniquely military functions.* Defined in DoD Instruction 1100.22, “Policy and Procedures for Determining Workforce Mix.”

#### § 158.4 Policy.

It is DoD policy that:

(a) OCS actions (e.g., planning, accountability, visibility, deployment, protection, and redeployment requirements) shall be implemented to:

(1) Incorporate appropriate contingency program management processes during applicable contingency operations.

(2) Comply with applicable U.S., international, and local laws, regulations, policies, and agreements.

(3) Use contract support only in appropriate situations consistent with 48 CFR subpart 7.5, 48 CFR 207.503, and DoD Instruction 1100.22, “Policy and Procedures for Determining Workforce Mix.”

(4) Fully consider, plan for, integrate, and execute acquisition of, contracted support, including synchronizing and integrating contracted support flowing into an operational area from systems support, external support and theater support contracts and managing the associated contractor personnel, into applicable contingency operations consistent with CCDR policies and procedures and Joint Publication (JP) 4-10, “Operational Contract Support,” (see

[http://www.dtic.mil/doctrine/new\\_pubs/jp4\\_10.pdf](http://www.dtic.mil/doctrine/new_pubs/jp4_10.pdf)).

(b) Contractors are generally responsible for providing their own logistical support. However, in austere, uncertain, and/or hostile environments, the DoD may provide logistical support to ensure continuation of essential contractor services. CAAF may receive Government-furnished support commensurate with the operational situation in accordance with the terms and conditions of their contract.

(c) Contracting officers will ensure that contracts used to support DoD operations require:

(1) That CAAF deploying from outside the operational area be processed through formal deployment (replacement) centers or a DoD-approved equivalent process prior to departure, and through in-theater reception centers upon arrival in the operational area, as specified in §158.6 of this part.

(2) That contractors provide personnel who are medically, dentally, and psychologically fit, and if applicable, professionally tested and certified, to perform contract duties in applicable contingency operations. Section 158.6 of this part details medical support and evacuation procedures. Section 158.7 of this part provides guidance on contractor medical, psychological, and dental fitness.

(3) Solicitations and contracts address any applicable host country and designated operational area performance considerations.

(d) Contracts for highly sensitive, classified, cryptologic, and intelligence projects and programs shall implement this part to the maximum extent practicable, consistent with applicable laws, Executive orders, Presidential Directives, and DoD issuances.

(e) In applicable contingency operations, contractor visibility and accountability shall be maintained through a common joint database, the Synchronized Predeployment and Operational Tracker (SPOT) or its successor.